

AMENDED IN ASSEMBLY JUNE 27, 2006

AMENDED IN ASSEMBLY JUNE 14, 2006

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1729

Introduced by Senator Soto

February 24, 2006

An act to amend Sections 22844, 22940, and 22944 of, to amend and renumber Section 22942 of, and to add Sections 22941, 22942, 22945, and 22946 22944.5, and 22944.7 to, the Government Code, relating to public employees' health benefits.

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, as amended, Soto. Public employees: health benefits.

(1) The Public Employees' Medical and Hospital Care Act requires the Board of Administration of the Public Employees' Retirement System to approve health benefit plans for certain public employees and annuitants, and authorizes the board to contract with carriers offering health benefit plans. The act prohibits an employee, annuitant, or family member enrolled in a prescription drug plan under Part D of Medicare from enrolling in a board-approved health benefit plan, unless enrolled in an approved Medicare Advantage plan.

This bill would instead exempt from that prohibition an employee, annuitant, or family member enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(2) ~~That law~~ *The Public Employees' Medical and Hospital Care Act* permits an employer to elect to participate in the prefunding of

health care coverage for annuitants. Under that law, if an employer elects to participate in the prefunding of health care coverage for annuitants, the Board of Administration of the Public Employees' Retirement System determines the contribution rate for that employer. That law requires the Board of Administration to notify each employer that provides retirement benefits through the Public Employees' Retirement System of that employer's contribution rate, regardless of whether that employer participates in the prefunding of health care coverage.

This bill would revise and recast those provisions to permit the Board of Administration of the Public Employees' Retirement System to authorize an employer to participate in the prefunding of health care coverage for annuitants. ~~This~~ The bill would permit the Board of Administration to determine the contribution rate for an employer based on information provided by that employer, as specified. ~~This~~ The bill would require, if the Board of Administration terminates the prefunding plan or an employer's participation in that plan, that the Board of Administration retain sufficient funds to pay for health care coverage for annuitants and administrative costs before paying any remaining assets to the employer.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22844 of the Government Code is
2 amended to read:
3 22844. (a) Employees, annuitants, and family members who
4 become eligible to enroll on or after January 1, 1985, for Part A
5 and Part B of Medicare may not be enrolled in a basic health
6 benefit plan. If the employee, annuitant, or family member is
7 enrolled in Part A and Part B of Medicare, he or she may enroll
8 in a Medicare health benefit plan.
9 (b) Employees, annuitants, and family members enrolled in a
10 prescription drug plan under Part D of Medicare may not be
11 enrolled in a board-approved health benefit plan. This
12 subdivision does not apply to an individual enrolled in a
13 board-approved or offered health benefit plan that provides a
14 prescription drug plan or qualified prescription drug coverage
15 under Part D of Medicare as part of its benefit design.

(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or regulation.

SEC. 2. Section 22940 of the Government Code is amended to read:

22940. There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

SEC. 3. Section 22941 is added to the Government Code, to read:

22941. Each participating employer shall pay an amount, determined by the board, for administrative costs of the prefunding plan established by this article. The board shall deposit in the State Treasury to the credit of the Annuitants' Health Care Coverage Fund all amounts received by the board for those administrative costs.

SEC. 4. Section 22942 of the Government Code is amended and renumbered to read:

22943. An employer authorized by the board may elect to participate in the prefunding plan established by this article.

SEC. 5. Section 22942 is added to the Government Code, to read:

22942. (a) For purposes of this article, the following definitions shall apply:

(1) "Annuitant" means any of the following:

(A) An annuitant described in Section 22760.

(B) A person who retires from employment with an employer described in subparagraph (B) of paragraph (3) and who receives postemployment health care benefits from the prefunding plan provided by that employer.

1 (C) A surviving family member who receives postemployment
2 health care benefits as a beneficiary of a deceased person
3 described in subparagraph (B).

4 (2) “Employee” means an employee described in Section
5 22772. “Employee” also means an officer or employee of an
6 employer described in subparagraph (B) of paragraph (3).

7 (3) “Employer” means either of the following:

8 (A) An employer described in Section 22773.

9 (B) An entity described in Section 22920 that has one or more
10 employees and that entity provides postemployment health care
11 benefits to annuitants.

12 (4) “Participating employer” means an employer that is
13 authorized and has elected to participate in the prefunding plan.

14 (5) “Prefunding plan” means the Annuitants’ Health Care
15 Coverage Fund that is a trust fund intended to meet the
16 requirements of Section 115 of the Internal Revenue Code.

17 (b) The board may, in its discretion and upon terms and
18 conditions set by the board, authorize an employer to participate
19 in the prefunding plan established by this article. The governing
20 body of a participating employer shall enter into a contract with
21 the board, setting forth the terms and conditions of that
22 employer’s participation in the prefunding plan.

23 SEC. 6. Section 22944 of the Government Code is amended
24 to read:

25 22944. The board may determine the contribution rate for the
26 following fiscal year for each participating employer and shall
27 annually transmit to each participating employer its contribution
28 rate for the following fiscal year which would fully fund its
29 obligations under this article. If the participating employer
30 provides information that satisfies the standards and requirements
31 established by the board, the board may rely on that information
32 in determining the contribution rate of the participating
33 employer. Nothing in this section shall require the board to
34 perform a valuation in determining the contribution rate of the
35 participating employer.

36 SEC. 7. Section ~~22945~~22944.5 is added to the Government
37 Code, to read:

38 ~~22945.~~

39 22944.5. (a) The board may terminate the participation of an
40 employer in the prefunding plan if any of the following apply:

1 (1) An employer elects to cease to participate in the
2 prefunding plan.

3 (2) The board finds that the participating employer has failed
4 to satisfy the terms and conditions required by this article, by
5 board rules or regulations, or by the contract between the
6 governing body of that participating employer and the board.

7 (3) The board terminates the prefunding plan.

8 (b) If the ~~Board~~ *board* terminates the participation of an
9 employer in the prefunding plan as described in paragraph (1) or
10 (2) of subdivision (a), the assets attributable to the contributions
11 by that employer shall remain in the prefunding plan, for the
12 continued payment of postemployment health care benefits
13 granted to current and future annuitants and the costs of
14 administration, pursuant to the terms and conditions of
15 participation established by the board and as agreed to by the
16 employer.

17 (c) If the board terminates the prefunding plan as described in
18 paragraph (3) of subdivision (a), the assets attributable to the
19 contributions by participating employers shall be paid in the
20 following order:

21 (1) The board shall retain for disbursement to annuitants an
22 amount sufficient to pay the postemployment health care benefits
23 for current and future annuitants.

24 (2) The board shall retain for payment an amount sufficient to
25 pay reasonable administrative costs.

26 (3) After the amounts described in paragraphs (1) and (2) have
27 been retained or disbursed, the board shall pay to each employer
28 participating in the prefunding plan on the date of termination, a
29 pro rata share of the remaining assets in the prefunding plan. The
30 board shall determine that pro rata share based on the ratio that
31 the participating employer's accumulated contributions bear to
32 the accumulated contributions of all participating employers.

33 SEC. 8. Section ~~22946~~22944.7 is added to the Government
34 Code, to read:

35 ~~22946.~~
36 22944.7. The board may adopt *emergency* regulations that
37 implement this article. Those regulations shall ~~not be subject to~~
38 ~~review and approval of the Office of Administrative Law~~
39 ~~pursuant to Chapter 3.5 (commencing with Section 11340) of~~
40 ~~Part 1 of Division 3. However, the board shall transmit those~~

1 ~~regulations to the Office of Administrative Law for filing with~~
2 ~~the Secretary of State and publication in the California Code of~~
3 ~~Regulations. Those regulations shall become effective~~
4 ~~immediately upon filing with the Secretary of State.~~ *be adopted*
5 *pursuant to Chapter 3.5 (commencing with Section 11340) of*
6 *Part 1 of Division 3. For purposes of Section 11346.1 and*
7 *11349.6, the Office of Administrative Law shall deem the*
8 *emergency regulations adopted by the board necessary for the*
9 *immediate preservation of the public peace, health and safety or*
10 *general welfare.*

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